



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 08 2015

Johanna Dyer  
Natural Resources Defense Council  
1314 2nd Street  
Santa Monica, CA 90034

OFFICE OF  
WATER

Re: Freedom of Information Act Request No. EPA-HQ-2016-001642, Revised Fee Estimate

Dear Ms. Dryer:

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on November 24, 2015 in which you requested:

- A. *Any presentations given by EPA to members of the public in relation to the Rulemaking (including any written or electronic materials shared with members of the public in connection with such presentations), which identify or describe (i) regulatory options under consideration by EPA or (ii) analyses conducted by EPA or data collected by EPA in support of the Rulemaking.*
- B. *Any synthesis or analysis of data regarding the feasibility, effectiveness or prevalence of onsite stormwater retention and/or stormwater retention standards, that EPA created, reviewed or otherwise considered in connection with the Rulemaking, including but not limited to:*
  - 1. *Any analysis or synthesis of data that EPA created, reviewed or otherwise considered, regarding benefits, costs, effectiveness, or practicability of stormwater retention standards for new development and redevelopment.*
  - 2. *Any analysis or synthesis of data that EPA created, reviewed or otherwise considered, showing or analyzing the existence or content of onsite stormwater retention standards for new development or redevelopment in state or local laws and/or in permits issued by federal, state, or local agencies.*

On December 03, 2015, the EPA's National Freedom of Information Office denied the fee waiver request that accompanied the FOIA request. You have subsequently appealed that determination. Therefore, we are writing to provide you with an estimate for the cost of processing your request, and to seek assurance of payment before complying with the request. You further indicated that you are willing to pay fees under protest but expressed a desire to be contacted if costs were to exceed \$500.00.

You were placed in the “other” fee category, which means you will be charged for search, and duplication costs in accordance with the Agency’s regulations under 40 C.F.R. Part 2, Subpart A.

### **I. Revised Fee Estimate: Part A**

The parties discussed the request on December 21, 2015. During our call, the Natural Resources Defense Council (NRDC) provided additional clarification regarding the scope of the request. Specifically, for part A, you indicated that you are not seeking every copy of every public presentation. Rather, you are seeking to understand through the content of the presentations how EPA publically shared the regulatory options under consideration; how EPA publicly described the analysis conducted or data collected, and how the rule was discussed publically over time.

Based on the above description of the request, EPA has estimated that the aggregate cost to process Part A will be \$4,802.00. This total is based on an estimated 152 hours for 13 staff and managers to search for and duplicate responsive records, using the appropriate rates contained in 40 C.F.R. § 2.107(c)(2)(i)(B) (i.e. \$7 per 15 minutes for staff searching and duplication, and \$10.25 per 15 minute for manager searching and duplication).

### **II. Revised Fee Estimate: Part B**

The parties discussed the request on December 21, 2015. During our call, NRDC provided additional clarification regarding the scope of the request. Specifically, for part B, you indicated that you are not seeking e-mail records. You are interested in memos and reports that provide summaries of analysis or findings including: summations of analysis in the context of modeling, technical documents and summaries of literature reviews that describe benefits, costs, effectiveness, or practicability of stormwater retention standards for new development and redevelopment. You are interested in other memos, reports, or the like that provide summaries of analysis or findings based on EPA’s consideration of any type of “data.” The parties agreed to continue discussions of Part B on January 11, 2015.

EPA is still in the process of compiling a fee estimate for part B of your request as described above and has determined that the estimate may change based on the answers to several questions we have concerning your request. We look forward to our follow-up discussion on January 11 and will provide you with an updated estimate after our meeting.

### **III. Next Steps**

Pursuant to 40 C.F.R. § 2.107(e), EPA requires written assurance of payment before processing the FOIA request when the estimated fees exceed \$25.00 or the amount you have indicated you are willing to pay. Once we receive your written assurance for Part A, we will begin to process part A of your FOIA request and provide you with an estimated date of completion.

Once we complete discussions of the scope of Part B we will complete revised the fee estimate and when we receive the corresponding assurance of payment for Part B, we will begin to process part B and provide you with an estimated date of completion.

If the actual costs fall below the provided estimate, you will only be billed the actual cost amount. If we find that the provided estimate will be insufficient to cover actual costs, we will complete work up to the



amount in the assurance of payment, provide you with an estimate of fees for the remainder of work, and seek assurance of payment before completing the remainder of work.

In this initial estimate of costs to process your FOIA requests, the EPA has interpreted your request for documents as stated above.

This FOIA request remains **tolled** until we receive your assurance of payment.

We look forward to speaking with you again on Monday, January 11.

You may contact my staff person at [galavotti.holly@epa.gov](mailto:galavotti.holly@epa.gov) or 202-564-1489 if you have any further questions. If we do not receive a response from you within this time period, we will consider your request to be voluntarily withdrawn. Once the request is clarified and we receive a written assurance of payment we will continue processing your FOIA request and provide you with an estimated timeframe for completion. If you wish to request information connected to this request in the future, please reference the FOIA request number.

Sincerely,

A handwritten signature in cursive script, reading "Allison Wiedeman". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Deborah Nagle  
Director of Water Permit Division, Office of Water, EPA

Cc: Andrew Sawyers, Christopher Kloss